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Proposed Listing of the Gulf of Mexico Bryde's Whale as Endangered under the Endangered Species Act

The National Oceanic and Atmospheric Administration (NOAA) announced a proposed rule to list the Gulf of Mexico Bryde's whale as endangered under the Endangered Species Act (ESA). The following FAQs provide background information, including the agency's science-based evaluation process, and opportunities for the public to comment on NOAA's finding.

Why did NOAA start the evaluation of the Gulf of Mexico Bryde's whale population?

NOAA received a petition from the Natural Resources Defense Council in September 2014 requesting we identify the Bryde's whale in the Gulf of Mexico (*Balaenoptera edeni*) as a Distinct Population Segment and list it as endangered.

How did NOAA make sure it used the best available data and information for this decision?

For this listing evaluation, we established a Status Review Team of Federal marine mammal scientists to collect and review information and assess the extinction risk to the species. Between April 2015 and March 2016, the Status Review Team assembled and evaluated the best available scientific and commercial information and compiled it into a Status Review Report. The Status Review Report was peer reviewed by independent experts. We are basing our decision on our evaluation of the best available information, found in the report.

Why is NOAA proposing to list the Gulf of Mexico Bryde's whale as a subspecies?

The Status Review Team looked at a recent publication on Bryde's whale genetics, and, after consultation with the Society for Marine Mammalogy's Committee on Taxonomy, identified Bryde's whales in the Gulf of Mexico as a separate subspecies of Bryde's whale. Generally, we do not need to evaluate listing below the taxonomic species or subspecies level if the best available information indicates the species or subspecies is in danger of extinction throughout all or a significant portion of its range. Therefore, we are proposing to list the subspecies and not a Distinct Population Segment, as we were originally petitioned.

What are the characteristics of the Gulf of Mexico Bryde's whale and where is it found?

The Gulf of Mexico Bryde's whale is the only year-round resident baleen whale (filter feeder) in the Gulf of Mexico. Its current population size is less than 100 individuals. The Gulf of Mexico Bryde's whale is genetically distinct from the other two recognized subspecies of Bryde's whales worldwide. The Gulf of Mexico Bryde's whale has been consistently located in a very narrow depth corridor along the De Soto Canyon shelf break in the northeastern Gulf of Mexico. This area has been identified as the Bryde's whale Biologically Important Area (Figure 1). This

area covers waters between 100 m and 300 m deep from approximately Pensacola, Florida to just south of Tampa, Florida. Since the early 1990s, few individuals have been sighted in the north-central and western Gulf of Mexico despite a large amount of survey effort. Conclusions are difficult to make for the southern Gulf of Mexico where there has been little survey effort.

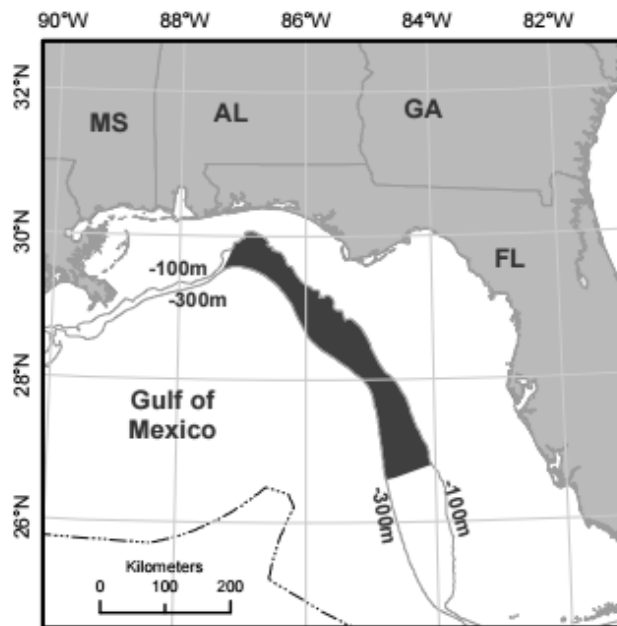


Figure 1. The Biologically Important Area (BIA) for the small, resident Bryde's whale (*Balaenoptera edeni*) population in the Gulf of Mexico; defined by LaBrecque *et al.* (2015).

What are the threats to the Gulf of Mexico Bryde's Whale?

The combination of small population, small geographic range, plus ongoing threats increase the Gulf of Mexico Bryde's whale's extinction risk. While 27 possible threats were identified in the Status Review Report, the following three are the most significant:

Anthropogenic Noise - There is a significant amount of noise produced from a variety of manmade sources in the Gulf of Mexico. Of the identified noise sources, we determined that shipping and energy exploration and development activities produce a large amount of low frequency noise (<100 Hz) that falls within the hearing range of the Bryde's whale. Similar to other baleen whales, it is likely that the Gulf of Mexico Bryde's whales rely on their hearing to perform critical life functions (i.e., communication, navigation, mate finding, food location, predator avoidance, etc.). As noise levels rise in the marine environment, there are adverse physical and behavioral effects to marine mammals such as death, hearing loss or impairment, stress, behavioral changes, physiological effects, reduced foraging success, reduced reproductive success, masking of communication and environmental cues, and habitat displacement (Rosel *et al.* 2016).

Energy Exploration & Oil Spill and Spill Response - The Gulf of Mexico is highly industrialized due to expansive energy exploration and production that requires drilling rigs, platforms, cables, pipelines, and ship support. Habitat in the north-central and western Gulf of Mexico, which includes the Gulf of Mexico Bryde's whale's historical range, has been significantly modified by the presence of thousands of oil and gas platforms. In addition, exposure to spilled oil and dispersants used for oil spill response can result in lethal or sub-lethal effects to baleen whales. The Deepwater Horizon oil spill is an example of the significant impacts a spill can have on the Gulf of Mexico Bryde's whale. Although the

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For more information please visit:

http://sero.nmfs.noaa.gov/protected_resources/listing_petitions/species_esa_consideration/index.html

<http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/brydeswhale.htm>

Deepwater Horizon platform was not located within the Biologically Important Area, the Bryde's whales were still significantly impacted by the spill.

Vessel Collision - Vessel collisions are a significant source of death for many large whale species. The northern Gulf of Mexico is an area of a high amount of ship traffic. Several important commercial shipping lanes also cross through the Biologically Important Area. The Bryde's whales' dive behavior contributes to their risk of collision. Tracking information indicates they spend the majority of the night within 15 m of the surface. The risk of vessel strike is significant, given the location of commercial shipping lanes, the difficulty of sighting a whale at the surface at night, and the low ability of large ships to change course quickly enough to avoid a whale.

What happens now that the subspecies is proposed for listing?

NOAA is currently *proposing* to list the subspecies. Between the proposed and final listing rule there are no additional prohibitions or restrictions. Before making a final decision on this proposal we are asking for comments from the public, other governmental agencies, the scientific community, industry, and any other interested parties.

What will happen if the Gulf of Mexico Bryde's whale is listed as endangered under the ESA?

If the Gulf of Mexico Bryde's whale is ultimately listed as endangered, the ESA provides many tools to assist in their protection and recovery. The ESA requires the Federal government to designate "critical habitat" for any species it lists under the ESA. When the Gulf of Mexico Bryde's whale's listing rule is final, we will designate [critical habitat](#) if determinable and prudent. The designation of critical habitat does not create a closed area, marine protected area, or other conservation area; nor does the designation affect land ownership. Federal agencies that undertake, fund, or permit activities that may affect these designated critical habitat areas are required to consult with NOAA Fisheries to ensure that their actions do not adversely modify or destroy designated critical habitat.

We would also consult with federal agencies on actions that they carry out, fund, or authorize that "may affect" the Gulf of Mexico Bryde's whale to ensure the action does not jeopardize the continued existence of the listed species. Any federal action that may affect the subspecies would need to undergo section 7 consultation, and any activities that are not authorized, funded, or carried out by a federal agency would require a section 10(a)(1)(B) permit if the action may affect the subspecies.

Gulf of Mexico Bryde's whales would continue to be protected under the Marine Mammal Protection Act, as well.

How can I participate in this process?

You can submit a public comment online via www.regulations.gov and enter NOAA-NMFS-2014-0101 into the keyword search. The public comment period is open from December 8, 2016 through February 6, 2017. Also, there will be a Public Hearing held on January 19, 2017, in St. Petersburg, Florida, from 6:00 p.m. to 8:00 p.m. at NOAA Fisheries, Southeast Regional Office, Dolphin Conference room, 236 13th Avenue, South, St. Petersburg, Florida, 33701.